



Paper No. 9

SHELDON & MAK, INC
225 SOUTH LAKE AVENUE
9TH FLOOR
PASADENA CA 91101

COPY MAILED

JUL 28 2003

OFFICE OF PETITIONS

ON PETITION

In re Application of
Teran
Application No. 09/982,570
Filed: October 16, 2001
Attorney Docket No. 13817-3
For: METHOD FOR TENDERIZING PORK

This is a decision on the petition under 37 CFR 1.181, filed July 18, 2003, to withdraw the holding of abandonment of the above-identified application.

This application was held abandoned for failure to respond in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice), mailed on March 21, 2002, that required submission of an executed declaration and surcharge for its late filing within two (2) months of the mail date of the Notice. The filing of the instant petition precedes the mailing of A Notice of Abandonment.

Petitioner asserts that a proper response was in fact timely deposited with the USPS on December 14, 2001 and received in the Office on December 20, 2001. In support, petitioner submitted a copy of his itemized, return receipt postcard dated stamped December 20, 2001 by the Office and a copy of the correspondence listed on the postcard -- 1. Response to Notice to File Missing Parts, 2. Combined Declaration and Power of Attorney, 3. Power of Attorney from Assignee, 4. Assignment with Recordation Form Cover Sheet, 5. Information Disclosure Statement with 13 references, and 6. Copy of Notice to File Missing Parts.

The return postcard constitutes *prima facie* evidence that the items listed thereon were filed on December 20, 2001. MPEP 503.

A review of the copy of the Response to Notice to File Missing Parts of Nonprovisional Application reveals that applicant listed an incorrect application number in the header. Applicant typed: "Application Number: 09/782,570." (Emphasis added). The copy of the IDS and the postcard receipt itself cite the same incorrect application number.

Even though petitioner cited the wrong application number, under MPEP 502, "A minor error in the identification of the application can be corrected by the group provided the correct identification can be quickly discovered. Examples of minor errors are transposed numbers, typographical errors, and listing the parent application number." The undersigned believes that a relatively simple review of Office records would have yielded the correct application number to enable the Office to match the December 20, 2001 correspondence with this application file. A cross-referencing of any of the accurate identifiers found on the transmittal with Office database records would have revealed the typographical error.

Therefore, the response to the November 20, 2001 Notice was timely filed. Accordingly, the

petition is **GRANTED**, the Notice of Abandonment is hereby vacated, and the holding of abandonment withdrawn.

No petition fee has been or will be charged in connection with this matter.

The application file will be forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries pertaining to this matter may be directed to the undersigned at (703) 308-6712.



E. Shirene Willis
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy